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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Oleg ZOMMERS

Serial No.: 09/603,216

Group Art Unit: 3623

Filed: 06/26/00

Examiner: Meinecke Diaz, S.

For: **INTERACTIVE PERSONAL INFORMATION SYSTEM AND METHOD**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA, 22313-1450

Dear Sir:

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JUN 02 2004  
GROUP 3600

Enclosed please find the following:

1. Reply to the Notice of Non-Responsive Reply of February 25, 2004;
2. Request for a two month extension of time; and
3. A check in the amount of \$210.00

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to Deposit Account No. 18-1579. The Commissioner is also authorized to charge Deposit Account No. 18-1579 for any future fees connected in any way to this application. A copy of this letter are enclosed.

Respectfully submitted,

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In re Application of Oleg ZOMMERS

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REPLY / ELECTION

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Dear Sir:

In response to the Restriction/Election requirement mailed September 15, 2003, and the Notice of Non-Responsive Reply mailed February 25, 2004, Applicant hereby elects the invention of Species I, Subspecies A<sub>3</sub>, with traverse, for prosecution on the merits.

Applicant submits that no claims read on Species I, Subspecies A<sub>1</sub> (for the reasons submitted below); claims 35, 147, and 249 read on Species I, Subspecies A<sub>2</sub> and A<sub>4</sub>; claims 32-34, 144-146, 245-248, and 463-465 read on Species I, Subspecies A<sub>3</sub>; claims 59, 171, 273, and 475 read on Species I, Subspecies B<sub>1</sub> and B<sub>2</sub>; no claims read on Species I, Subspecies B<sub>3</sub> (for the reasons submitted below); claims 101-103, 207-209, 315-317, and 504-505 read on Species I, Subspecies C<sub>1</sub>; no claims read on Species I, Subspecies C<sub>2</sub> (for the reasons submitted below); claims 321-428 read on Species II, and all remaining claims are generic.

Based on the election of Species I, Subspecies A<sub>3</sub>, Applicant elects examination of claims 1-34, 36-58, 60-100, 104-146, 148-170, 172-206, 210-248, 250-272, 274-314, 318-320, 429-474, and 476-503.

***Reasons for Traverse***

The Restriction/Election requirement mailed September 15, 2003 is improper for multiple reasons and traversed by the Applicant.

May 21, 2003

Atty. Docket No. 2571-001

As an initial matter, the Restriction/Election requirement is improper as being directed to allegedly *disclosed* inventions instead of *claimed* inventions. Although Applicant understands that species are generally identified with respect to mutually exclusive embodiments disclosed in the specification - usually the drawings - the alleged species/subspecies have little to do with the claimed invention and, when they do relate to the claimed invention, mostly fall within the generic independent claims.

The Restriction/Election requirement is improper under MPEP 803.02 since the alleged subspecies require restriction of Markush groups. For example, Species I, Subspecies B<sub>1</sub> and B<sub>2</sub> require restriction of a two member Markush group in claims 59, 171, 273, and 475. MPEP 803.02 clearly states: "If the members of the Markush group are sufficiently few in number *or* so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions." In this case, the Markush group has two members, which is clearly sufficiently few in number since it is the minimum number possible.

The Restriction/Election requirement is improper since at least some of the alleged subspecies read on NO claims. Although claims 17, 48-49, 53-54, 129, 160-161, 165-166, 231, and 267-268 deal with requests of one sort or the other, none of these claims meets the subspecies requirement of being "[d]irected toward delivering personalized information to a user in response to a direct request from a user for that particular information" as required by Species I, Subspecies A<sub>1</sub>. For example, claim 17 does not require that the request be *from a user* and claim 54 nowhere mentions a "direct request ... for *that particular information*" but rather a more general (i.e, generic) "specific request" for "additional comments" for *yet undetermined* "hot news."

Likewise, although claims 30, 142, 244, and 462 use psychological testing to produce a profile, no claims are "[d]irected toward analyzing user profiles for psychological testing" as required by Species I, Subspecies B<sub>3</sub>. Additionally, NO claims involve statistical evaluation required by Species I, Subspecies C<sub>3</sub>.

Furthermore, the alleged Species and Subspecies are improper as not necessarily being mutually exclusive. The Examiner has explicitly admitted in paragraph 1 of the Notice of Non-Responsive Reply that: "The Examiner has studied the elected claims and finds that the elected